

APPEAL NO. 010517

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 5, 2001. The hearing officer gave presumptive weight to the report of the designated doctor on the disputed issue of impairment rating (IR), which IR was three percent.

The appellant (claimant) has appealed and points out the disparity in the IR conducted by the designated doctor and her own doctors. The respondent (carrier) responds that the decision was correctly decided in that the medical evidence against the designated doctor's report does not amount to a "great weight."

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in finding that the report of the designated doctor, Dr. C, was entitled to presumptive weight and was not overcome by the great weight of the contrary medical evidence. The claimant had a wrist injury which required surgery and resulted in a continuing nonunion at the wrist. This was her preferred extremity. The primary difference between the report of Dr. C and the claimant's doctor, Dr. S, is that Dr. S assigned part of the IR for motor and sensory loss, while Dr. C found no such loss when measured objectively. For example, Dr. C noted that the claimant could distinguish between two points that were separated by a distance of 8 millimeters (mm), which is even less distance between the points than the 10 mm distance recommended in the Guides to the Evaluation of Permanent Impairment, third edition, second printing, dated February 1989, published by the American Medical Association.

The report of a Texas Workers' Compensation Commission-appointed designated doctor is given presumptive weight. Sections 408.122(c) and 408.125(e). The amount of evidence needed to overcome the presumption, a "great weight," is more than a preponderance, which would be only greater than 50%. See Texas Workers' Compensation Commission Appeal No. 92412, decided September 28, 1992. Medical evidence, not lay testimony, is the evidence required to overcome the designated doctor's report. Texas Workers' Compensation Commission Appeal No. 92164, decided June 5, 1992. Differences in approach do not necessarily rise to the level of a "great weight." An IR assessed by a doctor for the claimant must be able to be confirmed through objective clinical or laboratory evidence by the designated doctor.

While the claimant argued that her own doctors were more familiar with her care, the designated doctor procedure set up in the 1989 Act is not based upon courses of treatment but upon discrete examinations by the nonaligned doctor. We cannot agree that

the hearing officer erred in her decision to accord presumptive weight, and we affirm the decision and order.

Susan M. Kelley
Appeals Judge

CONCUR:

Michael B. McShane
Appeals Judge

Philip F. O'Neill
Appeals Judge